

## Remarks

In the present response, claims 1 – 71 are presented for examination.

### Claim Rejections: 35 USC § 103(a)

Claims 1-7, 12-19, 24, 25, 26-36, 40-48, 53-62, 66, and 67 are rejected under 35 USC § 103(a) as being unpatentable over USPN 4,384,368 (Rosenfeldt) in view of USPN 6,901,557 (Martinez). Further, claims 8-11, 20-23, 37-39, 50-52, 63-65, and 68-71 are rejected under 35 USC § 103(a) as being unpatentable over USPN 4,384,368 (Rosenfeldt) in view of USPN 6,901,557 (Martinez) and US publication number 2002/0084994 (Hansen). These rejections are traversed.

The claims recite one or more elements that are not taught or suggested in Rosenfeldt in view of Martinez and Hansen. These missing elements show that the differences between the combined teachings in the art and the recitations in the claims are great. As such, the pending claims are not a predictable variation of the art to one of ordinary skill in the art. Some examples are provided below for the independent claims.

As one example, each independent claim recites one or more claim elements directed to a plurality of server blades. Some of the independent claims recite that the server blades are stacked and enclosed in a housing or box build. Rosenfeldt in view of Martinez and Hansen does not teach or suggest these claim elements.

As shown in Fig. 1, Rosenfeldt teaches a device housing 1 that includes four device inserts 15-18. **These device inserts are not server blades.** Rosenfeldt describes what these inserts are:

The inserts 15 through 18, thus, are a part of the signal transmission system for physiological signals which are taken at the body of a patient by means of suitable sensors. To this end, thus, the sensors (not illustrated) are positioned on the body of the patient and are coupled via a signal cable (likewise not illustrated) to the respective inserts 15 through 18. The inserts 15 through 18, to this end, exhibits sockets 19 through 22 for the corresponding plugs of the signal cable. (See Rosenfeldt column 2, lines 24-34).

Thus, Rosenfeldt does not teach or even suggest a plurality of server blades. Instead, Rosenfeldt teaches inserts that form a device for receiving sensed physiological signals from a human. Rosenfeldt has nothing whatsoever to do with server blades.

As shown in Figs. 1 and 2, Martinez teaches a computer system 100 than can be a single headless server. This headless server includes a liquid crystal display 124 for error reporting (see Martinez at column 3, lines 2-6). Martinez teaches a single headless server, not a plurality of server blades or stacked server blades enclosed in a housing or box build. Furthermore, Martinez does not suggest how the headless server could somehow be stacked with other headless servers, coupled to a chassis, and enclosed in a housing.

The differences between the claims and the teachings in the art are great since the references fail to teach or suggest all of the claim elements. As such, the pending claims are not a predictable variation of the art to one of ordinary skill in the art.

For at least these reasons, the claims are allowable over the art of record.

#### Factors/Rationale Do Not Support Obviousness

In determining obviousness, neither the particular motivation to make the claimed invention nor the problem the inventor is solving controls. The proper analysis is whether the claimed invention would have been obvious to one of ordinary skill in the art after consideration of all the facts. Further, although the Supreme Court in KSR cautioned against an overly rigid application of the teaching-suggestion-motivation (TSM) rationale, the Supreme Court recognized that TSM was one of a number of valid rationales that could be used to determine obviousness.

Applicants discuss examples of rationale or factors below to show that there is no finding of obviousness.

As a first factor, Applicants respectfully submit that no teaching or suggestion exists to make the combination because the references are directed to completely different inventions. Rosenfeldt (in US classification 455/602) is directed to inserts that form a device for receiving sensed physiological signals from a human. Rosenfeldt has nothing to do with server blades or headless servers. **By contrast, Martinez teaches a completely different and unrelated invention.** Martinez (in US classification 715/772)

is directed to a single headless server that includes a liquid crystal display for error reporting. Martinez never states or even suggests using the headless server for connecting to sensors to receive physiological signals from a human. Further, Rosenfeldt never states or even suggests using his device that senses human physiological signals as a headless server.

As a second factor, Rosenfeldt and Martinez would have to be greatly modified to arrive at the claimed invention. Rosenfeldt is directed to a device that attaches to sensors. These sensors, in turn, attach to a human to measure physiological signals from the human. By stark contrast, Martinez teaches a headless server. Martinez does not discuss or even suggest how this headless server could somehow be adapted to couple to sensors connected to a human and then read physiological signals from the human. Further, the devices for sensing physiological signals from a human in Rosenfeldt could not be easily adapted to function as a server since these are completely different electrical devices.

As a third factor, the differences between the claims and the applied references are great. By way of example, each independent claim recites one or more claim elements directed to a plurality of server blades. Some of the independent claims recite that the server blades are stacked and enclosed in a housing or box build. Rosenfeldt in view of Martinez and Hansen does not teach or suggest these claim elements.

As a fourth factor, the Examiner is performing an improper piecemeal construction that uses hindsight to arrive at the claim elements. In other words, the Examiner is picking and choosing unrelated and isolated sentences or teachings from Rosenfeldt and Martinez with hindsight of Applicants' invention to allegedly obviate the pending claims. One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988).

As a fifth factor, no reasonable expectation of success has been established for modifying Rosenfeldt with the teachings of Martinez to arrive at the recitations of the claims. Rosenfeldt expressly teaches a device that uses sensors to attach to a human and then reads physiological signals from the human. By contrast, Martinez teaches a headless server. No explanation, instructions, or direction is provided in either Rosenfeldt or Martinez for modifying a server to be a device that connects to sensors to sense

physiological signals from a human. Furthermore, no explanation, instructions, or direction is provided in either Rosenfeldt or Martinez for a device modifying the device in Rosenfeldt (i.e., a device that connects to sensors to sense physiological signals from a human ) to function as a headless server.

As a sixth factor, Appellant argues that no teaching or suggestion exists to make the combination because the references are directed to solving completely different problems. The background in Rosenfeldt discusses advantages of constructing device inserts that are insulated with a synthetic material. By contrast, the background in Martinez discusses problems of prior headless servers not having a keyboard and/or monitor to respond to errors during a boot process.

These various factors show that elements in the claims are not obvious in view of the Rosenfeldt and Martinez.

### **CONCLUSION**

In view of the above, Applicants believe that all pending claims are in condition for allowance. Allowance of these claims is respectfully requested.

Any inquiry regarding this Amendment and Response should be directed to Philip S. Lyren at Telephone No. 832-236-5529. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,

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